

Sade & Co.

905 16TH STREET, NORTHWEST

WASHINGTON, D.C.

January 18, 1973

Mr. Lee A. Packard

Associate Director

Division of Market Regulations Securities and Exchange Commission

Washington, D. C. 20549

Dear Mr. Packard:

In connection with the implementation of procedures for compliance of Rule 15c3-3 I had a conversation today with Mr. Nelson Kibler of your office. At Mr. Kibler's suggestion I am writing to you for clarification of section "d" of this rule.

Sade & Co. follows the procedure of specifically identifying the opposing side of all customer transactions. Could you comment on our procedure given the following circumstances:

1. Sade & Co. has two customers (as defined by A (1) of 15c3-3).
Customer A is a cash customer and Customer B is a margin customer.
2. In June of 1973 Customer B purchased 100 Asamera Oil on margin. In addition, other securities were purchased and the 100 Asamera Oil was properly placed on loan by Sade & Co. at a local bank in July 1973.
3. On August 15, 1973 Customer A purchased 200 Asamera Oil and fully paid for the shares on that day.
4. Other than Customer A and Customer B, Sade & Co. has no other customers in Asamera Oil.
5. The broker from whom Sade & Co. purchased the Asamera Oil for Customer A is failing to deliver to us on August 15.

Procedure:

A. No action is taken to request the return of 200 Asamera for Customer B (margin customer).

B. We wait for the broker who sold Customer A the security to make delivery to us, however, if he fails to deliver within 30 days from settlement we buy him in on these shares. During the period from the date of the buy-in until actual receipt of the security no steps are taken to remove securities on loan for purposes of satisfying Customer A's priority.

C. We make no deliveries of Asamera Oil against Sade & Co. fails to deliver except for same day turnarounds until Customer A is given the 200 shares he purchased on August 15.

D. We maintain daily documentation to support that the above outlined procedures were followed.

The major difficulty for us would be the margin loan location. If, as outlined above, we would not be required to pull securities off loan, to satisfy a fully paid customer claim, when we have a fail to receive from a broker under 30 days old, our recordkeeping system for compliance with 15c3-3 would be much less cumbersome for our operating personnel.

Your comments on this example would be greatly appreciated.

Very truly yours,

H. C. Duques

Operations Partner

FEB 26 1973

Mr. H. C. Duques

Operations Partner

Sade & Company

905 - 16th Street, N. W. Washington, D. C. 20006

Dear Mr. Duques:

In your letter dated January 18, 1973 you describe a certain situation and request clarification of how the situation should be treated pursuant to paragraph (d) under Rule 15c3-3 of the Securities Exchange Act of 1934. In summary, you assume in your example that a "cash account" customer is long 200 shares of a given issuer; customer B, a "margin account" is also long 100 shares of the same security, which is properly pledged as security for a firm bank loan. These being the only positions in this particular security, it would appear, you state, that under the provisions of paragraph (d) your firm would be required it withdraw the 100 shares from the bank loan, because, in the situation cited, you would have a deficiency in securities of this issuer that is not in your possession or control as defined in paragraphs (b) and (c), notwithstanding the fact that securities that are being withdrawn are properly, in your example, exclusive security for the debit in the "margin" customers' account. Additionally, the 200 shares long in the "cash" customers' account are failing to be received for less than 30 days. You also state that your firm follows the practice of identifying both sides of all customers' transactions.

With respect solely to the application of paragraph (d) of Rule 15c3-3, where a single issue is the sole security carried in the account of a customer in a "margin" account and where such security is deemed to be a "margin security" as defined in subparagraph (a)(4) of the Rule and, further, where the firm's books and records clearly reflect and preserve the identity of both the "long" and "short" side of individual transactions, the staff will not require a broker-dealer to withdraw from a bank loan "margin securities" as may be required by the provisions of paragraph (d) under Rule 15c3-3 where all the conditions set forth above are not.

Sincerely yours,

Nelson S. Kibler

Staff Accountant

2/28/73